

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application

Certa

Serial No. 09/931,733, filed August 17, 2001

For: **DETERMINATION OF THE ABILITY OF PATIENTS TO RESPOND TO A TUMOR TREATMENT**

PETITION TO WITHDRAW NOTICE OF INCOMPLETE
NONPROVISIONAL APPLICATION

Nutley, New Jersey 07110
November 28, 2001

Commissioner of Patents
Washington, D.C. 20231

Dear Sir:

This is in response to a Notice of Incomplete Nonprovisional Application dated October 2, 2001 for the captioned application.

Applicants hereby request that (1) the Notice of Incomplete Nonprovisional Application be withdrawn and (2) the captioned application be recorded an August 17, 2001 filing date.

By way of background, applicants filed the captioned application an August 17, 2001.

However, drawing Figures 1-2, referred to in the specification, were inadvertently omitted.

01/09/2002 CNGUYEN 00000026 082525 09931733

01 FC:122 130.00 CH

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Adjustment date: 03/08/2002 AKELLEY
01/09/2002 CNGUYEN 00000026 082525 09931733
01 FC:122 130.00 CH

Serial No. 09/931,733
Filed: August 17, 2001

An October 2, 2001 Notice of Incomplete Application stated that "A filing date has NOT been accorded to the above identified application papers [because]...the application was deposited without drawings."

Applicant accepts the application as deposited without the drawings. The drawings are not necessary under 35 U.S.C. §113, first paragraph.

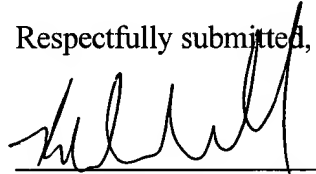
The claims of the instant application contain at least one method claim. According to MPEP §601.01(f), it has been PTO practice to treat an application that contains at least one method claim as an application for which a drawing is not necessary for the understanding of the invention under 35 U.S.C. §113 (first sentence). Thus, the application is entitled to the August 17, 2001 filing date, and the Notice of Incomplete Application should be withdrawn. Applicants submit herewith a Preliminary Amendment canceling all references to the omitted drawings.

The fee for filing this Petition is \$130.00. The Commissioner is hereby authorized to charge payment of the fee for filing this Petition to Deposit Account No. 08-2525. However, since the Notice of Incomplete Application should be withdrawn, **applicants also hereby request a refund of the fee for filing this Petition by credit to Deposit Account No. 08-2525.**

Serial No. 09/931,733
Filed: August 17, 2001

A copy of the Notice of Incomplete Application is attached.

Respectfully submitted,



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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/931,733	08/17/2001	Ulrich Certa	20676

CONFIRMATION NO. 4620

00151
HOFFMANN-LA ROCHE INC.
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY, NJ 07110

FORMALITIES LETTER



OC000000006830050

Date Mailed: 10/02/2001

NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has NOT been accorded to the above-identified application papers for the reason(s) indicated below.

All of the items noted below **and a newly executed oath or declaration covering the items must** be submitted within **TWO MONTHS** of the date of this Notice, unless otherwise indicated, or proceedings on the application will be terminated (37 CFR 1.53(e)).

The filing date will be the date of receipt of all items required below, unless otherwise indicated. Any assertions that the item(s) required below were submitted, or are not necessary for a filing date, must be by way of petition directed to the attention of the Office of Petitions accompanied by the \$130.00 petition fee (37 CFR 1.17(h)). If the petition states that the application is entitled to a filing date, a request for a refund of the petition fee may be included in the petition.

- The application was deposited without drawings. 35 U.S.C. 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented." *Applicant should reconsider whether the drawings are necessary under 35 U.S.C. 113 (first sentence).*

*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE